

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

HUMBERTO GONZALES,)

Plaintiff,)

v.)

Case No. _____

MISSOURI STATE HIGHWAY)

PATROL, COLONEL ERIC T.)

OLSON, SUPERINTENDENT,)

individual and official)

capacity, TROOPER DANIEL)

J. DALTON, individual)

capacity, and Unknown)

Troopers #1-10,)

Defendants.)

Notice of Removal

Defendants Missouri State Highway Patrol, Colonel Eric T. Olson, Superintendent, individual and official capacity, Trooper Daniel J. Dalton, individual capacity, and Unknown Troopers #1-10, under 28 U.S.C. §§ 1331, 1441(a), and 1446(b), give notice of removal of this action from the Sixteenth Judicial Circuit Court of Jackson County, Missouri, to the U.S. District Court for the Western District of Missouri. In support of this Notice of Removal, Defendants state:

Procedural History and Plaintiff's Allegations

1. Plaintiff filed his Petition, captioned *Humberto Gonzales v. Missouri*

- State Highway Patrol, Colonel Eric T. Olson, Superintendent, individual and official capacity, Trooper Daniel J. Dalton, individual capacity, and Unknown Troopers #1-10*, and given the case number 2216-CV03250, in the Sixteenth Judicial Circuit Court in Jackson County, Missouri on April 12, 2022.
2. Plaintiff filed his Petition on February 22, 2022.
 3. Plaintiff named multiple defendants, including Missouri State Highway Patrol, Colonel Eric T. Olson, Trooper Daniel J. Dalton, and Unknown Troopers #1-10.
 4. Defendants were served on April 12, 2022.
 5. Plaintiff purports to bring his claims under 42 U.S.C. § 1983 alleging that Defendants violated his First, Fourth and Fourteenth Amendment rights when they used excessive force.
 6. Plaintiff also purports to bring claims under Missouri state tort law.
 7. The Missouri Attorney General's Office represents all of the defendants.
 8. Defendants have not filed an answer because no answer is yet due.

Grounds for Removal

9. Plaintiff asserts civil claims under federal law. Specifically, Plaintiff asserts claims under 42 U.S.C. § 1983.
10. "The district courts shall have original jurisdiction of all civil actions

arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331.

11. Federal district courts have original jurisdiction over the claims in Plaintiff’s Amended Petition, because the claims arise under federal law; thus, Plaintiff’s claims invoke federal-question jurisdiction, and removal of this case is proper under 28 U.S.C. §§ 1331 and 1441(a).
12. Under 28 U.S.C. § 1367(a), federal District courts have supplemental jurisdiction over claims that are so related to the federal claims that they form part of the same case or controversy under Article III of the United States Constitution.

Defendants Have Satisfied All Procedural Requirements

13. The U.S. District Court for the Western District of Missouri is the appropriate court for removal of this case because Plaintiff filed the underlying action in Jackson County, Missouri, which is located in the Western District of Missouri area, and a substantial part of the allegations giving rise to Plaintiff’s claims occurred within this district. *See* 28 U.S.C. § 1391(b)(2).
14. Under 28 U.S.C. § 1446(b)(1) and (2)(A), within 30 days after receipt or service of the initial pleading, “all defendants who have been properly joined or served must join in or consent to the removal of the action.”

15. Thirty days have not yet expired since these Defendants were served in this case with the amended petition, which first asserted claims invoking this Court's jurisdiction.
16. All defendants are represented by the Missouri Attorney General's Office and consent to this Notice of Removal.
17. Immediately upon filing this Notice of Removal, Defendants will file a copy of this Notice with the Clerk of the Circuit Court of Jackson County, Missouri, and provide written notice to counsel in accordance with 28 U.S.C. § 1446(d).
18. Copies of all process, pleadings, and orders served upon Defendants in this action are attached as Exhibit A.
19. A copy of the Civil Case Cover Sheet is attached as Exhibit B.
20. A copy of the Notice of Filing of Notice of Removal in the state court is attached as Exhibit C.

Non-Waiver of Defenses

21. By removing this action from the Circuit Court of Jackson County, Missouri, Defendants do not waive any defenses available to them.
22. By removing this action from the Circuit Court of Jackson County, Missouri, Defendants do not admit any of the allegations made in Plaintiff's Amended Petition.

For these reasons, Defendants give notice of the removal of this action to effect removal of this lawsuit from the Circuit Court of Jackson County, Missouri, to the United States District Court for the Western District of Missouri.

Respectfully submitted,

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*Attorneys for Defendants Missouri State
Highway Patrol, Colonel Eric T. Olson,
Trooper Daniel J. Dalton*

Certificate of Service

I hereby certify that on _____, I filed the foregoing electronically with the Clerk of Court to be served by operation of the Court's electronic filing system upon all counsel of record.

/s/J. Patrick Sullivan
Assistant Attorney General